

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DARRIN LAPINE,

Plaintiff,

v.

Case No. 2:09-cv-214
HON. R. ALLAN EDGAR

PATRICIA CARUSO, et al.,

Defendants.

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ORDER

Defendants Burnett and Vilgos move pursuant to Fed. R. Civ. P. 37 and 41(b) to dismiss the plaintiff's claims against them based on the plaintiff's failure or refusal to appear for his discovery deposition. [Court Doc. No. 128]. Magistrate Judge Timothy P. Greeley has submitted his report and recommendation that the motion be denied. [Court Doc. No. 157]. Plaintiff Darrin LaPine objects to the finding in the report and recommendation that he refused to participate in his discovery deposition. After reviewing the record *de novo*, the Court concludes that the plaintiff's objection [Court Doc. No. 165] is DENIED.

The Court ACCEPTS and ADOPTS the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). For the reasons expressed in the report and recommendation, the defendants' motion to dismiss [Court Doc. No. 128] is DENIED.

SO ORDERED.

Dated: 8/2/2012

/s/ R. Allan Edgar
R. Allan Edgar
United States District Judge